

WORKERS' COMPENSATION FOR PARTICIPANTS IN THE ABAWD SERVICES PROGRAM

Background

To ensure that appropriate coverage is provided, the Division of Social Services purchases workers' compensation coverage for all participants in the Food Stamp ABAWD Services Program.

Policy

All food stamp participants in ABAWD Services Program are covered by a statewide workers' compensation policy purchased by the North Carolina Division of Social Services. Under State law, it is **mandatory** that an accident report be submitted to the North Carolina Industrial Commission via the insurance carrier, St. Paul Fire and Marine Insurance Company, within five working days of the "employer's" (i.e., work site sponsor's) **knowledge** of the accident. The accident report must include complete information as to the cause and nature of the accident and the nature and extent of the participant's injury. The statute of limitations on filing workers' compensation claims is two years after the accident.

Reports of accidents, fatalities, travel expenses (must be more than 20 miles round trip), etc. are reported on the appropriate forms issued by the North Carolina Industrial Commission. Medical bills and associated expenses are mailed by the food stamp participant or work site sponsor to the county workers' compensation coordinator or other designated staff. The medical bills and associated expenses are then mailed to the insurance carrier by the coordinator or other designated staff.

The designated person (It is recommended that the workers' compensation coordinator assume this responsibility.) is responsible for maintaining a log of all reported compensable injuries to the Food Stamp ABAWD Services participants. A copy of the log is mailed quarterly to the Economic Independence Section according to the following schedule.

| <u>Quarter</u> | <u>Due Date</u> |
|----------------------|-----------------|
| September – November | December 15 |
| December – February | March 15 |
| March – May | June 15 |
| June – August | September 15 |

The policy and procedures outlined apply only to injuries occurring on or after the effective date of the policy. Accidents and injuries sustained prior to the effective date of the policy will not be considered nor processed. The policy covers only injuries sustained at work sites located in North Carolina. Counties electing to develop work sites outside the state must ensure that workers' compensation coverage is available for ABAWD Services participants.

Extent of Coverage

The workers' compensation policy for food stamp participants in the ABAWD Services Program covers the costs of medical treatment associated with a compensable claim resulting from an accident while engaged in the ABAWD Services Program (travel must be more than 20 miles round trip). The costs of drugs and travel associated with the covered work site injury are also paid. To the extent allowed by the Workers' Compensation Act, injured ABAWD Services Program participants can receive monetary compensation for the loss of limbs or other severe injuries such as loss of vision.

Do not confuse workers' compensation coverage for ABAWD Services participants with the North Carolina Workers' Compensation Act. The latter provides coverage for persons who are employees and who earn wages. Food Stamp ABAWD Services participants are not considered employees, do not earn wages, and are, therefore, not entitled to recovery under the act.

Food stamp participants are not State employees; therefore, the State has no financial responsibility other than providing the insurance coverage discussed.

Figure 246-2

There is no liability for the State or counties other than the workers' compensation policy. Under ordinary circumstances, neither the State nor the local department of social services would be subject to any liability beyond the workers' compensation coverage. In situations, however, where the employer operates in flagrant violation of health and safety laws, the courts have allowed individuals to file suit.

Counties should not confuse liability for medical expenses and loss of limbs, etc. for participants in the ABAWD Services Program with other types of losses resulting from an individual in or operation of the ABAWD Services Program. For example, the workers' compensation policy does not cover injuries suffered by individuals who are not ABAWD Services participants, even if the injury to the person who is not an ABAWD Services participant is the direct result of a participant's action at the work site.

Workers' compensation is the primary coverage for medical expenses resulting from work site injuries, not Medicaid. Therefore, the workers' compensation coverage is required to reimburse Medicaid for any amount of medical expenses Medicaid has paid (at least to the extent of the workers' compensation coverage).

Claims Administration

Each county department of social services must develop local procedures for administering workers' compensation coverage for ABAWD Services participants. It is strongly recommended that the administration of claims be a joint responsibility shared by the county department of social services, work site sponsor, **and** the respective county workers' compensation claims coordinator or designated staff. The support of the county workers' compensation coordinator/designated staff will be invaluable because he/she should have considerable working knowledge of the workers' compensation law and reporting requirements.

In order for claims to be processed in a timely and efficient manner, good communication is essential. We strongly encourage frequent communication among food stamp staff, the county workers' compensation coordinator, and other involved parties. A meeting may be scheduled to discuss the particulars related to the purpose of the coverage, the nature and purpose of ABAWD Services, and reporting procedures for claims.

Areas to be explored/discussed at the meeting should include the following.

1. A review of reporting requirements specified by the North Carolina Industrial Commission;
2. Who will be responsible for which tasks and the time frame for completing each task;
3. How maintenance of the accident log will be handled;
4. How to verify who is in ABAWD Services;
5. Who will be responsible for forwarding medical bills and other expenses to the insurance carrier (e.g., participant, work site sponsor, workers' compensation coordinator); **and**
6. Whether to use the county-designated physician to handle workers' compensation claims. If a county-designated physician has not been identified, a St. Paul Claims Representative can assist counties with locating a medical provider. You also have access to a list of providers in the St. Paul "network" by going to their website at { HYPERLINK <http://www.travcomp.com> } and going to "network providers."

There are variations in the manner in which counties handle these issues, just as there are variations in the manner in which workers' compensation claims are currently handled for regular employees. However, we recommend that counties follow the procedures outlined to the greatest extent possible. The recommended procedures include the responsibilities typically carried out by the county departments of social services, the work site sponsor as an "employer," and the workers' compensation coordinator or designated staff.

Counties are encouraged to facilitate communication with the compensation coordinator or designated staff. If your county workers' compensation coordinator is not known, please contact the county manager's office to determine who has been assigned as your designated coordinator.

When an injury occurs at the work site, either Form 18 { [HYPERLINK "Figure 246-4"](#) } or 19 { [HYPERLINK "Figure 246-5"](#) } must be submitted. Generally, Form 19 { [HYPERLINK "Figure 246-5"](#) } is completed by the work site sponsor and submitted to the workers' compensation coordinator who then submits it to the insurance carrier. However, if the work site sponsor refuses or fails to complete Form 19 { [HYPERLINK "Figure 246-5"](#) } the participant may file Form 18 { [HYPERLINK "Figure 246-4"](#) } Form 18 { [HYPERLINK "Figure 246-4"](#) } should be filed by the participant immediately on occurrence of the accident or as soon thereafter as practical within 30 days. Forms 25P { [HYPERLINK "Figure 246-6"](#) } and 25T { [HYPERLINK "Figure 246-7"](#) } may be completed by the participant, the work site sponsor, the designated staff, or the workers' compensation coordinator, depending on local procedures. Form 29 { [HYPERLINK "Figure 246-8"](#) } is filed by the work site sponsor only in fatality cases.

Procedures

All food stamp staff needs to be familiar with the procedures to follow in the event of an accident/injury. Recommended procedures are listed below. The responsibilities of the county department of social services, work site sponsor, the county workers' compensation claims coordinator, and the participant are also described below.

1. The food stamp participant is to report the accident/injury immediately, but no later than 30 days after the accident/injury, to his/her work site supervisor.
2. The work site sponsor and food stamp staff will assist the participant in obtaining appropriate medical care through the designated physician.
3. The work site sponsor (supervisor) shall immediately complete five copies of the accident report, Form 19 { [HYPERLINK "Figure 246-5"](#) } and mail three copies to the county workers' compensation coordinator. The remaining copies are to be mailed to the appropriate food stamp staff and injured participant. In the event that the work site sponsor must contact the St. Paul Fire and Marine Insurance Company directly because of death, paralysis, or serious injury, the work site sponsor must also inform the county's workers' compensation coordinator and food stamp staff that the report was made. The work site sponsor is encouraged to keep a copy of Form 19 { [HYPERLINK "Figure 246-5"](#) }.
4. The work site sponsor will immediately notify the county's food stamp staff of the accident/injury by telephone.
5. The food stamp staff (case manager) will verify that the participant is in ABAWD Services through the appropriate department of social services records. This information will be conveyed to the workers' compensation coordinator, the work site sponsor, and the insurance carrier.
6. The accident/injury will be entered in a central accident log that is maintained by the county workers' compensation coordinator. The log is to contain the period covered by the log, each injured ABAWD Services Participant's Name, SSN, FSIS Individual ID#, Claim Number, Date of Accident, Date Accident Reported, and a Brief Description of the Injury (e.g., "injured knee" or "fell down steps"). The department of social services will have responsibility of verifying the accuracy of entries into the log prior to submitting the log to the Economic Independence Section. (The county department of social services may find it helpful to keep a log as well.) See { [HYPERLINK "Figure 246-3"](#) } for a sample log to keep track of reports of injuries.)

Department of Social Services Responsibilities

The following outlines the responsibilities of food stamp staff in the reporting/filing of workers' compensation injuries/claims.

1. Explain to ABAWD Services participants, work site sponsors, the workers' compensation coordinator, and others that workers' compensation coverage is available;
2. Post Notice to Employees { [HYPERLINK "Figure 246-9"](#) } for employees in locations that are accessible to food stamp participants, such as the office of the food stamp staff person who is responsible for the ABAWD Services placements;
3. The county department of social services must designate a physician (and provide the name of the designated physician to the work site sponsor) to treat workers' compensation injuries. The department of social services may choose to use the same physician the county currently uses or the county may choose to use a physician in the St. Paul "network" (A provider can be located by accessing the St. Paul website at { [HYPERLINK http://www.travcomp.com](http://www.travcomp.com) } and then go to "network providers.");
4. Assist the participant in obtaining appropriate medical care through the designated physician;
5. Verify that the food stamp participant is participating in ABAWD Services;
6. Follow up with the work site sponsor to ensure that the necessary forms have been completed and mailed to the workers' compensation coordinator;
7. Place a copy of any worker's compensation form(s) in the participant's case record;
8. Notify the Economic Independence Section by telephone, 919-733-7831, of the injury/claim within five working days of when the county department of social services learns of the accident report; **and**
9. Ensure that a copy of the central accident log is mailed quarterly to the Economic Independence Section.

Work Site Responsibilities

Responsibilities of the work site sponsor in filing workers' compensation injury/accident claims include the following.

1. Complete the accident report, Form 19 { [HYPERLINK "Figure 246-5"](#) }. Enter "NC Division of Social Services," the town in which the county department of social services is located, and the name of the county's workers' compensation coordinator or designated staff on Line 1. Enter the address of the county workers' compensation coordinator on Line 2. The Claims Representative of St. Paul Fire and Marine Insurance Company will assist with completion of Form 19 { [HYPERLINK "Figure 246-5"](#) }.
2. Immediately notify county food stamp staff of the accident/report.
3. Mail the accident report, Form 19 { [HYPERLINK "Figure 246-5"](#) } to the county workers' compensation coordinator, mail a copy to the food stamp staff person, and provide a copy to the injured ABAWD Services participant.
4. Forward medical expenses/bills to the workers' compensation coordinator.

County Workers' Compensation Coordinator Responsibilities

It is recommended that the county workers' compensation coordinator assume responsibility for the following.

1. Forward travel expenses, drug charges, etc. to the insurance carrier for completion of necessary forms;
2. Serve as liaison between the insurer and the participant;
3. Assume primary responsibility for maintenance of the accident log. The coordinator will mail a copy of the accident log quarterly to the food stamp staff person; **and**

4. When necessary, make arrangements to reimburse Medicaid for any associated medical expenses

Food Stamp Participant Responsibilities

Food stamp participants have responsibility for the following.

1. Immediately give notice of the accident to the work site sponsor (supervisor) or as soon as possible after the accident occurs. The notification must be within 30 days of the accident. The statute of limitations for reporting claims is two years.
2. Report all medical bills/expenses to the county workers' compensation coordinator.
3. Cooperate with the work site sponsor/department of social services/medical personnel in reporting medical expenses in a timely fashion, complying with medical treatment, etc.